

1 SENATE BILL NO. 420

2 INTRODUCED BY S. GALLUS, KEANE

3 BY REQUEST OF THE SENATE LOCAL GOVERNMENT STANDING COMMITTEE

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 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PENALTIES FOR DELINQUENT FILING OF
 6 REQUIRED AUDITS AND REPORTS BY A LOCAL GOVERNMENT ENTITY TO THE DEPARTMENT OF
 7 ADMINISTRATION; REQUIRING THE DEPARTMENT TO ADOPT RULES ESTABLISHING A FINE; ALLOWING
 8 THE DEPARTMENT TO WAIVE THE PENALTIES UNDER CERTAIN CIRCUMSTANCES; AMENDING
 9 SECTIONS 2-7-503 AND 2-7-517, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
 10 APPLICABILITY DATE."
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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14 **Section 1.** Section 2-7-503, MCA, is amended to read:

15 **"2-7-503. Financial reports and audits of local government entities.** (1) The governing body or
 16 managing or executive officer of a local government entity, other than a school district or associated cooperative,
 17 shall ensure that a financial report is made every year. A school district or associated cooperative shall comply
 18 with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed
 19 by the department, and be completed and submitted to the department for review within 6 months of the end of
 20 the reporting period. ~~The local government entity shall submit the financial report to the department for review.~~

21 (2) The department shall prescribe a uniform reporting system for all local government entities subject
 22 to financial reporting requirements, other than school districts. The superintendent of public instruction shall
 23 prescribe the reporting requirements for school districts.

24 (3) (a) The governing body or managing or executive officer of each local government entity receiving
 25 revenue or financial assistance in the period covered by the financial report in excess of the threshold dollar
 26 amount established by the director of the office of management and budget pursuant to 31 U.S.C. 7502(a)(3),
 27 but regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every
 28 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months
 29 from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the
 30 department for review within 1 year from the close of the last fiscal year covered by the audit.

1 (b) The governing body or managing or executive officer of a local government entity that does not meet
 2 the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or,
 3 in the case of a school district, if directed by the department at the request of the superintendent of public
 4 instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements
 5 of the entity for the preceding fiscal year.

6 (4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance
 7 audit of an individual financial assistance program that a local government is required to conduct under any other
 8 state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the
 9 information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency
 10 shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a
 11 duplication of effort.

12 (5) In addition to the audits required by this section, the department may at any time conduct or contract
 13 for a special audit or review of the affairs of any local government entity referred to in this part. The special audit
 14 or review must, to the extent practicable, build upon audits performed pursuant to this part.

15 (6) The fee for the special audit or review must be a charge based upon the costs incurred by the
 16 department in relation to the special audit or review. The audit fee must be paid by the local government entity
 17 to the department of revenue and must be deposited in the enterprise fund to the credit of the department.

18 (7) Failure to comply with the provisions of this section subjects the local government entity to the
 19 penalties provided in 2-7-517."

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21 **Section 2.** Section 2-7-517, MCA, is amended to read:

22 **"2-7-517. Penalty Penalties -- rules to establish fine.** (1) When a local government entity has failed
 23 to file a report as required by 2-7-503(1); ~~unless an extension has been granted by the department for good cause~~
 24 ~~shown~~, or to make the payment required by 2-7-514(2) within 60 days, the department may issue an order
 25 stopping payment of any state financial assistance to the local government entity or may charge a late payment
 26 penalty as adopted by rule. Upon receipt of the report or payment of the filing fee, all financial assistance that was
 27 withheld under this section must be released and paid to the local government entity.

28 (2) In addition to the penalty provided in subsection (1), if a local government entity has not filed the
 29 audits or reports pursuant to 2-7-503 within 180 days of the dates required by 2-7-503, the department shall notify
 30 the entity of the fine due to the department and shall provide public notice of the delinquent audits or reports.

1 ~~(2)~~(3) When a local government entity has failed to make payment as required by 2-7-516 within 60 days
 2 of receiving a bill for an audit, the department may issue an order stopping payment of any state financial aid to
 3 the local government entity. Upon payment for the audit, all financial aid that was withheld because of failure to
 4 make payment must be released and paid to the local government entity.

5 (4) The department may grant an extension to a local government entity for filing the audits and reports
 6 required under 2-7-503 or may waive the fines, fees, and other penalties imposed in this section if the local
 7 government entity shows good cause for the delinquency or demonstrates that the failure to comply with 2-7-503
 8 was the result of circumstances beyond the entity's control.

9 (5) The department shall adopt rules establishing a fine, not to exceed \$100, based on the cost of
 10 providing public notice under subsection (2), for failure to file audits or reports required by 2-7-503 in the
 11 timeframes required under that section."

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13 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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15 NEW SECTION. Section 4. Applicability. [This act] applies to audits and reports required under
 16 [section 1] for fiscal year 2010 and thereafter.

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